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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CONSOLIDATED RAIL CORPORATION,
a/k/a CONRAIL,
Defendant and Third Party
Plaintiff,

vs.

PENN CENTRAL CORPORATION
et al.,
Third Party Defendants.

No. S90-00056
Judge Miller

CERTIFIED COPY
When Stamped in Red

Deposition of BRIDGET LOMBARDI taken
before CAROL RABER, CSR, Notary Public, pursuant to
the Federal Rules of Civil Procedure for the United
States District Courts pertaining to the taking of
depositions, at Suite 300, 111 West Jackson, in the
City of Chicago, Cook County, Illinois, commencing
at 1:00 o'clock p.m. on the 10th day of February
A.D., 1993.

1 APPEARANCES:

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8 on behalf of Consolidated Rail Corporation;

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21 DEPARTMENT OF JUSTICE, by
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Washington, D.C. 20044

on behalf of the U.S. Environmental Protection Agency;

GOODWIN, PROCTER & HOAR, by
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on behalf of Gemeinhardt Company, Inc.;

1 APPEARANCES (continued):

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 3 PIERCE E. CUNNINGHAM, Esq.
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 201 East Fifth Street
 Cincinnati, Ohio 45202
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5 on behalf of Penn Central Corporation.
 6

7
 8 I N D E X

9 WITNESS:

10 BRIDGET LOMBARDI

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1 MR. LINDLAND: If you could first, I
2 think, just go in order starting with you, Paul, and
3 give the court reporter names.

4 MR. LAMBERT: Paul Lambert, I represent
5 Conrail.

6 If you give the reporter the Notice
7 of Deposition which is one of the documents in the
8 pile, that is my address and phone number.

9 MR. CUNNINGHAM: I am Pierce Cunningham,,
10 and I represent Penn Central; and again use the list
11 for my address.

12 MR. LAMBERT: I don't think that I
13 attached the list, Pierce.

14 MR. CUNNINGHAM: Okay, so I will give it
15 to you. It is Central Trust Center, Cincinnati,
16 Ohio 45202. Frost & Jacobs is the name of the law
17 firm.

18 Is that all you need? You might
19 need the phone number, (513)651-6939.

20 MR. FREEMAN: Robert Freeman, and I
21 represent Gemeinhardt Company, Inc. My law firm is
22 Goodwin, Procter & Hoar. The address is Exchange
23 Place, Boston, MA 02109, phone (617) 570-1000.

24 MR. JAFFE: My name is Peter Jaffe. I

1 represent U.S. EPA along with, I guess, two other
2 attorneys here today, and my name and address are on
3 the Certificate of Service listed in that pile of
4 documents on Page 5 of the fax.

5 MR. LINDLAND: Steve Mason, and myself.

6 MR. LAMBERT: Kurt, maybe for the rest of
7 the people on the phone you could identify who else
8 you have in the room with you there.

9 MR. LINDLAND: Sure. There is myself.
10 My name is Kurt Lindland. I am with U.S. EPA. We
11 have Steve Mason, also with U.S. EPA Office of
12 Regional Counsel, and Bridget Lombardi, the
13 deponent.

14 BRIDGET LOMBARDI, having been called as a
15 witness and having been duly sworn under oath, was
16 examined and testified as follows:

17 (Witness sworn.)

18 MR. LAMBERT: Let me start by asking you
19 if the reporter would mark as Lombardi Exhibit No. 1
20 the Notice of Deposition that Kurt should have there
21 within reach.

22 MR. LINDLAND: I guess, Paul, if you
23 could first say your name.

24 MR. LAMBERT: I am Paul Lambert. I am

1 going to be asking the questions for a while.

2 (Lombardi Exhibit No. 1
3 marked for identification.)

4 EXAMINATION

5 BY MR. LAMBERT:

6 MR. LINDLAND: My understanding is that
7 Ms. Lombardi is being produced in response to that
8 deposition. I would like to first ask if she would
9 give her full name and tell us where she is
10 employed?

11 A. My name is Bridget Lombardi, and I work
12 for Ecology and Environment, Incorporated.

13 Q. Where are you based?

14 A. Based in Chicago, Illinois, at 111 West
15 Jackson Boulevard.

16 Q. What is your position at E&E?

17 A. I am a project manager geologist.

18 Q. Could you give us just very quickly a
19 short description of educational background and
20 where you have worked since you got out of school? I
21 don't want to spent a lot of time on it, but just to
22 give us an idea -- especially those of us who can't
23 see you -- where you have been and what you have
24 done?

1 A. Okay. I have Bachelor of Arts degree in
2 geology. I got that degree from Augustana College
3 in Rock Island, Illinois, and I graduated in 1985.
4 And since August of '85 I have been employed with
5 Ecology and Environment in Chicago.

6 Q. What type of work have you done for
7 Ecology and Environment?

8 A. Primarily geological type of work,
9 hydrogeological studies; I have worked on various
10 private and government contracts with the company.

11 Q. Would you tell us when you first became
12 involved with the Conrail rail yard site?

13 A. I first became involved with Conrail in
14 November of 1988.

15 Q. How did you become involved?

16 A. Ecology and Environment was given a work
17 assignment from the U.S. EPA under the ARCS contract
18 that E&E has with the EPA at that time.

19 Q. What was your role beginning in November
20 of 1988?

21 A. At that time I was assigned as the
22 remedial investigation task leader.

23 Q. What did that job entail?

24 A. That job entailed doing most of the

1 designing of the remedial investigation and carrying
2 that through the field investigation being the field
3 manager and directing and overseeing activities out
4 in the field.

5 Q. Did your position on the project change
6 subsequently?

7 A. Yes.

8 Q. When did it change and what did it change
9 to?

10 A. It changed in I believe it was May of
11 1992 to what is termed site manager or project
12 manager for the site..

13 Q. How did your responsibilities change?

14 A. I was given responsibility over the
15 entire remedial investigation and feasibility study
16 for the project.

17 Q. And you still have those responsibilities
18 today?

19 A. Yes, I do.

20 MR. LAMBERT: I would like to ask the
21 reporter to mark as Lombardi Exhibit 2 the excerpt
22 that Kurt should have from the Phase II Remedial
23 Investigation Technical Memorandum dated July 22,
24 1992.

1 MR. LINDLAND: Okay. Paul, she is going
2 to mark I believe it is Chapter 5, I mean all of
3 those pages. That is what, four pages?

4 MR. LAMBERT: Fine. Including the cover
5 page?

6 MR. LINDLAND: Right.

7 (Lombardi Exhibit No. 2
8 marked for identification.)

9 BY MR. LAMBERT:

10 Q. To try to keep things simple, I have only
11 marked a few pages from this technical memorandum,
12 but I would like to ask Ms. Lombardi what, if any
13 role, she had in connection with the document as a
14 whole.

15 A. I was the author.

16 Q. Of the entire document?

17 A. I was primary author with one other
18 person working with me on the document.

19 Q. Who is that person?

20 A. His name is Rod Hackler.

21 Q. How does his responsibilities relate to
22 yours?

23 A. When I was assigned site manager, Rod
24 took over as the remedial investigation task leader.

1 Q. Were there some portions of the technical
2 memo that you wrote and he wrote, or was he just
3 assisting you in writing the whole thing?

4 A. He assisted me in writing the entire
5 document.

6 Q. This deposition is limited to one small
7 aspect of the Technical Memo and in particular to
8 the last item on Page 5-2. Do you have page 5-2
9 there?

10 A. Yes, I do.

11 Q. I am referring now to the last bullet
12 which refers to reported buried tank cars and buried
13 or spilled drums on the Conrail rail yard. Do you
14 see that?

15 A. Yes, I do.

16 Q. I take it that the technical memo
17 reflects your belief that the report of the buried
18 tank cars and buried and spilled drums require
19 additional investigation; is that correct?

20 A. Could you repeat that?

21 Q. Yes.

22 Am I right in understanding that it
23 was your view as principal author of the technical
24 memo that reports that you had received of buried

1 tank cars and buried or spilled drums required
2 additional investigation; is that correct?

3 A. That is correct.

4 Q. Would you tell us where the report that
5 is referred to there came from?

6 A. Could you repeat that?

7 Q. Yes. The bullet refers to reported
8 buried tank cars or buried or spilled drums. Can
9 you tell us where the report came from?

10 A. No, I cannot.

11 Q. Who was the first person who mentioned to
12 you the possibility of buried or spilled drums on
13 the Conrail rail yard?

14 MR. LINDLAND: Are you talking about
15 these drums, Paul, that are identified in the
16 technical memorandum?

17 MR. LAMBERT: That's exactly right.

18 BY THE WITNESS:

19 A. Is that who or when?

20 BY MR. LAMBERT:

21 Q. Who?

22 A. That would have to be a meeting that I
23 had with Greg Kirk.

24 Q. Do you recall when the meeting occurred?

1 A. Yes, I do.

2 Q. When was that?

3 A. It was February 13th, 1992.

4 Q. Where did the meeting take place?

5 A. Is the meeting began at a SONOCO station
6 at the Conner of Ash Road and U.S. 33 in Elkhart,
7 Indiana.

8 Q. Where did the meeting continue?

9 A. On to the Conrail facility.

10 Q. How did you happen to meet with Mr. Kirk?

11 MR. LINDLAND: Could you clarify that a
12 little, Paul?

13 BY MR. LAMBERT:

14 Q. Who arranged the meeting?

15 A. The meeting was set up by Paul Courtney
16 of the Indiana Department of Environmental
17 Management.

18 Q. Had you ever spoken to Mr. Kirk before?

19 A. No.

20 Q. Who was present besides you and Mr. Kirk?

21 A. Paul Courtney of Indiana Department of
22 Environmental Management and Kevin Phillips from
23 Ecology and Environment.

24 Q. Kevin Phillips?

1 A. Correct.

2 Q. What was his position?

3 A. Kevin Phillips was site manager at the
4 time of the meeting.

5 Q. Did you have any discussion with Mr. Kirk
6 at the -- was it the SONOCO station; is that what
7 you said?

8 A. SONOCO, yes.

9 Q. Did you have any discussion with him
10 there?

11 A. Yes, sir.

12 Q. Can you tell us what that was, please?

13 A. We sat at a table inside of the SONOCO
14 station, and he discussed with us the spilled drums
15 location on site.

16 Q. Did you have any other discussion with
17 him at the same time?

18 MR. LINDLAND: Paul, first of all, I
19 object, and I am instructing her not to answer to
20 the extent that her answer would go beyond the scope
21 of the 36(b)(6) notice.

22 MR. LAMBERT: Well, I appreciate that the
23 notice is restricted, but I think I need to know a
24 little bit more to know about how this particular

1 bit of information fits in with other information
2 that he provided or might have provided.

3 Let me ask first whether he provided
4 any and see if we have an issue here that we need to
5 dispute.

6 BY MR. LAMBERT:

7 Q. Did he provide any other information
8 besides information with respect to spilled drums?

9 A. Yes, he did.

10 Q. Can you tell me the general subject
11 matter of the information that he provided?

12 MR. LINDLAND: Again, Paul, I am
13 instructing her not to answer to the extent her
14 answer would go beyond the scope of the 30(b)(6)
15 notice.

16 MR. LAMBERT: Well, I don't know about
17 the "to the extent" part of your instruction. If
18 you are instructing her not to answer, then I will
19 simply move on.

20 MR. LINDLAND: She testified they discuss
21 spilled or buried drums and...

22 MR. LAMBERT: I think she just said
23 spilled.

24 MR. LINDLAND: Okay.

1 Spilled?

2 THE WITNESS: (Nodding)

3 BY MR. LAMBERT:

4 Q. Was that the testimony, Ms. Lombardi?

5 A. Yes, it was.

6 Q. Okay. What did he say with respect to
7 spilled drums?

8 A. He said that there was a group of about
9 100 drums that had been stored on site southwest of
10 the car shop that had been there since the time of
11 Penn Central ownership; and during Conrail
12 ownership, they had been disposed of east of the car
13 shop -- spilled in a field east of the car shop.

14 Q. Did he say anything else at all with
15 respect to the drums?

16 A. Unknown contents.

17 Q. Did he say anything else?

18 MR. LINDLAND: You mean with respect to
19 the spilled drums?

20 MR. LAMBERT: That's right.

21 BY THE WITNESS:

22 A. No, he didn't.

23 BY MR. LAMBERT:

24 Q. He didn't describe their color, I take

1 it?

2 A. Not that I recall.

3 Q. Did you ask him for the color?

4 A. Not that I recall.

5 Q. Did you ask him for the condition of the
6 drums?

7 A. Not that I recall.

8 Q. Did you ask him when you were at the
9 SONOCO station to describe where the drums had been
10 located before they were spilled?

11 A. Could you repeat that?

12 Q. When you were at the SONOCO station, did
13 you ask him to describe where the drums had been
14 before they were taken to the area east of the car
15 shop?

16 MR. LINDLAND: I believe she already
17 testified to that, that they were southwest of the
18 car shop.

19 BY MR. LAMBERT:

20 Q. Is that correct?

21 A. That's correct.

22 Q. Did you take any notes of what Mr. Kirk
23 was telling you?

24 A. No, I didn't.

1 Q. To your knowledge, did either Mr. Hackler
2 or Mr. Courtney?

3 MR. LINDLAND: If you know.

4 BY THE WITNESS:

5 A. Mr. Hackler wasn't there.

6 BY MR. LAMBERT:

7 Q. I beg your pardon, I meant Mr. Phillips.
8 Did Mr. Phillips or Mr. Courtney take any notes to
9 your knowledge?

10 A. Yes.

11 Q. Who took the notes?

12 A. Paul Courtney.

13 Q. Have you ever seen his notes?

14 A. No, I have not.

15 Q. Okay.

16 Did you subsequently go to the yard
17 itself with Mr. Kirk?

18 A. Yes, we did.

19 Q. I am sorry, I couldn't hear you.

20 A. Yes, we did.

21 Q. Which part of the yard did you go to?

22 A. Around the car shop.

23 Q. Can you be any more specific than that?

24 A. To the extent that I can, there is what we

1 would term kind of a dirt road that runs behind
2 south of the car shop, and that is the path that we
3 took.

4 MR. LINDLAND: For the record, Paul, she
5 is looking at a map that is taped to my wall of the
6 yard -- the rail yard.

7 BY MR. LAMBERT:

8 Q. Did you ask Mr. Kirk if he could point
9 out where the drums had been stored?

10 A. I believe so.

11 Q. Can you recall where it was he told you
12 they had been stored?

13 A. Yes, I can.

14 Q. Would you take a pen and -- first of all,
15 let me ask if the reporter could mark --

16 MR. LINDLAND: Wait, Paul --

17 MR. LAMBERT: Yes?

18 MR. LINDLAND: Could you ask that
19 question again?

20 MR. LAMBERT: Let me ask if the reporter
21 would mark as Exhibit 3 the single page of the map
22 that has roman numeral I in the upper left-hand
23 corner.

24 MR. LINDLAND: Just the first page?

1 MR. LAMBERT: That's right.

2 MR. LINDLAND: Paul, could you ask that
3 last question, the one before you asked to have the
4 exhibit marked.

5 MR. LAMBERT: I don't remember what it
6 was.

7 MR. LINDLAND: I believe it had to do
8 with identifying the location of the stored drums.

9 MR. LINDLAND: I asked if Mr. Kirk -- I
10 can't remember what I asked.

11 Maybe the reporter could read it
12 back.

13 (Prior record read.)

14 BY MR. LAMBERT:

15 Q. Now if the map has been marked as an
16 exhibit, I would like to ask Ms. Lombardi if she
17 would make a circle on the map at the spot as best
18 you can where Mr. Kirk said the drums had been
19 stored.

20 THE COURT REPORTER: Could you wait a
21 minute? I am marking the exhibit now.

22 MR. LINDLAND: Paul, I think that Bridget
23 misinterpreted your question, so could you ask her
24 the question again about whether Mr. Kirk identified

1 where the drums were stored.

2 MR. LINDLAND: Let's wait for the thing
3 to be marked so that the reporter is ready to go.

4 (Lombardi Exhibit No. 3
5 marked for identification.)

6 MR. LINDLAND: Okay, it is marked, Paul.

7 BY MR. LAMBERT:

8 Q. Ms. Lombardi, would you like to change or
9 qualify an answer that you gave in response to my
10 prior question?

11 A. Yes, I would.

12 Q. Go ahead.

13 A. Mr. Kirk did not point out where the
14 drums had been stored; he only gave a verbal
15 description.

16 Q. Did you ask him if he was able to point
17 out where the drums had been stored?

18 A. Not to my recollection.

19 Q. Did he do so?

20 A. Not to my recollection.

21 Q. Okay. Did you at the time you had this
22 discussion with him form an understanding in your
23 own mind as to where it was he was referring to?

24 A. Specifically?

- 1 Q. Yes.
- 2 A. No.
- 3 Q. How about generally?
- 4 A. Yes.
- 5 Q. Where was that?
- 6 A. Southwest of the car shop.
- 7 Q. Did you have an understanding as to how
- 8 far southwest of the car shop?
- 9 A. No, I did not.
- 10 Q. Did you have any discussion with Mr. Kirk
- 11 about the drums when you got to the car shop area
- 12 itself?
- 13 A. Not that I recall.
- 14 Q. Did you ask him to point out where the
- 15 drums had been spilled?
- 16 A. Yes, I did.
- 17 Q. What did he say?
- 18 A. He told us to drive further east of the
- 19 car shop.
- 20 Q. Did you do so?
- 21 A. Yes, we did.
- 22 Q. Did he go with you?
- 23 A. Yes, he did.
- 24 Q. Did he show you a particular spot?

1 A. Yes, he did.

2 Q. Could you mark that on the map, please?

3 MR. LINDLAND: Paul, first I think you
4 need to lay a foundation for this piece of paper
5 with your lines drawn on it.

6 MR. LAMBERT: You have your objection.

7 BY MR. LAMBERT:

8 Q. Could you mark on the map where it is
9 that Mr. Kirk pointed you to?

10 MR. LINDLAND: First of all, do you
11 recognize this map?

12 THE WITNESS: Yes, I do.

13 MR. LINDLAND: What do you recognize the
14 map as?

15 MR. LAMBERT: Kurt, you can ask your
16 questions when I am done.

17 MR. LINDLAND: Well, you have handed her
18 a piece of paper and you presume she can mark on
19 here the location where some drums were spilled, and
20 it is not clear that she recognizes that this map is
21 of the Conrail rail yard.

22 MR. LAMBERT: She has been working there
23 for three years. I hope that she can recognize it.
24 I am sure she can.

1 MR. LINDLAND: Why don't you ask her to
2 find out?

3 BY MR. LAMBERT:

4 Q. Ms. Lombardi, do you recognize the map?

5 A. Yes, I do.

6 Q. Do you recognize the location of the car
7 repair shop?

8 A. Yes, I do.

9 Q. Is the area that Mr. Kirk took you to
10 included on the map?

11 A. Yes, it is.

12 Q. Would you mark the area, please?

13 MR. LINDLAND: You want her to just put
14 an X there?

15 MR. LAMBERT: How about an X or a circle,
16 something that is legible and adjective; and I would
17 ask if she would please initial it in some way that
18 it would be visible to someone later on.

19 THE WITNESS: This plan has somewhat of a
20 different layout than what I am accustomed to. I
21 will show to the best as I can using my scale and
22 the scale of this map where this location is.

23 MR. LAMBERT: Okay.

24 (Witness marked exhibit.)

1 BY MR. LAMBERT:

2 Q. Let me know when you are done.

3 A. I am done.

4 Q. Can you tell us over the phone where you
5 put your mark using the vertical lines that I have
6 put on the map and also any other landmarks there?

7 MR. LINDLAND: How about a ruler? Do you
8 want her to measure down?

9 MR. LINDLAND: That would be fine.

10 BY MR. LINDLAND:

11 Q. Just tell me whereabouts you are in the
12 first place.

13 A. Okay. I am between the vertical lines of
14 D and F.

15 Q. Between D and E?

16 A. Between the vertical lines of D and F.

17 Q. E and F?

18 A. D as in dog and F as in Frank.

19 Q. Between E and F? I couldn't hear you the
20 first letter, I am sorry.

21 A. Between D as in dog --

22 Q. Yes. Between D and F; is that right?

23 A. D as in dog.

24 Q. Yes.

1 A. Okay, correct.

2 Q. And whereabouts are you between D and F?

3 A. Approximately three-and-a-quarter inches
4 south of the word "Franklin" across the top.

5 Q. Which letter in Franklin are you below?

6 A. F as in Frank.

7 Q. Three-and-a-half inches?

8 A. Three-and-a-quarter inches.

9 Q. Okay. Just to calibrate, that would be
10 northeast of NW 26; is that right?

11 A. Approximately, yes.

12 Q. Apart from the map and the scale
13 associated with it, about how many feet are you in a
14 general easterly direction from the car shop when
15 you are on that spot?

16 A. There is no way for me to know without a
17 scale. I don't even want to -- I don't want to -- I
18 don't even want to stab at that.

19 Q. Okay. Did you have any discussion with
20 Mr. Kirk when you got there?

21 MR. LINDLAND: About the spilled drums?

22 MR. LAMBERT: Right.

23 BY THE WITNESS:

24 A. He indicated this area as the area where

1 the drums had been spilled.

2 Q. Did you have any other discussion with
3 him there with respect to the drums that had
4 allegedly been spilled?

5 A. Not that I recall.

6 Q. Did you have any other discussions with
7 Mr. Kirk that day about the drums that had been
8 allegedly spilled?

9 A. Later that day?

10 Q. Any time that day.

11 A. Well, we had had our prior conversation
12 at the SONOCO station about the drums.

13 Q. Okay. Apart from that and apart from
14 what he told you when you got to the spot that you
15 have marked on the map, did you have any other
16 discussions with him that day relating to the drum?

17 A. Not that I recall.

18 Q. You didn't by any chance ask him for the
19 names or the name of the person who was responsible
20 for moving the drum to that spot; is that right?

21 A. To which spot?

22 Q. To the spot that you marked on the map?

23 A. No, I don't recall asking him.

24 Q. Apart from questions that you asked Mr.

1 Kirk yourself and to which he might have responded
2 with respect to the drums, was there any other
3 discussion that day with respect to the drums that
4 you were privy to involving Mr. Kirk?

5 MR. LINDLAND: Could you restate that
6 question, Paul?

7 BY MR. LAMBERT:

8 Q. Was there any other discussion that day
9 with Mr. Kirk involving the drums -- whether you
10 were a party to the discussion or not, in other
11 words whether you were participating or just
12 listening?

13 A. Yes, there were other discussions.

14 Q. Who were those discussions with?

15 A. Paul Courtney and Kevin Phillips.

16 Q. Did those discussions begin back at the
17 SONOCO station?

18 A. (No response.)

19 Q. Hello?

20 A. The discussions that I have been privy
21 to, yes, they started back at the SONOCO station.

22 Q. Can you recall any discussions relating
23 to the drums that Mr. Kirk had with either Mr.
24 Phillips or Mr. Courtney at the service station that

1 you have not already described?

2 A. Could you repeat that?

3 Q. Do you want me to repeat that?

4 A. Yes. I didn't catch one of the words or
5 I misinterpreted it.

6 Q. What I am asking you to do is tell us
7 about any other discussion that took place in your
8 presence involving Mr. Kirk at the SONOCO station
9 concerning the drums that you have not already
10 described to us?

11 A. No, all those conversations are
12 described.

13 Q. Were there any other discussion that took
14 place involving Mr. Phillips and Mr. Courtney,
15 either one of them, at the car shop area involving
16 the drums that you haven't already described?

17 A. No.

18 Q. Were there any discussions at the
19 location where Mr. Kirk said the drums had been
20 spilled that you haven't already described that
21 involved Mr. Courtney or Mr. Phillips?

22 A. All of the conversations that I recall
23 between those parties have been relayed.

24 Q. Just to be clear: As of now, have you

1 described all of the conversations that day in which
2 Mr. Kirk participated and for which you were present
3 that involved the drums?

4 A. All of the conversations that I recall,
5 yes.

6 Q. Did you ever have any subsequent
7 discussions with Mr. Kirk involving the drum?

8 A. No, I did not.

9 Q. Do you know if anyone at E&E did?

10 A. No, they did not.

11 Q. I am sorry, I missed your answer.

12 A. No.

13 Q. Did you know if any effort was ever made
14 to have Mr. Kirk sign a statement or an affidavit?

15 A. I am not aware of any such action.

16 Q. Do you know whether Mr. Kirk ever spoke
17 with anyone from EPA, U.S. EPA that is, with respect
18 to the buried drums or the spilled drums rather?

19 A. Yes, I am aware.

20 Q. What are you aware of?

21 MR. LINDLAND: Are you asking the names
22 of the people?

23 MR. LAMBERT: Yes.

24 BY THE WITNESS:

1 A. I do know that Greg Kirk has had at least
2 one conversation with Jan Carlson and, perhaps an
3 extern that was here at the Office of Regional
4 Counsel, Bonnie Kartsman.

5 Q. What is your basis for believing that he
6 had a conversation with Jan Carlson?

7 MR. LINDLAND: Paul, at this point I
8 would like the record to reflect that we will allow
9 Bridget to answer with respect to facts regarding
10 the content of the 30(b)(6) notice.

11 However, I will instruct her not to
12 answer insofar as her answer would reveal either
13 mental impressions, litigation strategy, or
14 enforcement strategy discussed with EPA attorneys.

15 MR. LINDLAND: You can answer the
16 question.

17 THE WITNESS: Could you repeat it?

18 BY MR. LAMBERT:

19 Q. What is your basis for believing that Jan
20 Carlson spoke with Greg Kirk?

21 A. She told me she did.

22 Q. Who told you?

23 A. Jan Carlson told me.

24 Q. Did she describe the conversation that

1 she had with Mr. Kirk?

2 A. Yes, she did.

3 Q. Did she describe his part of the
4 conversation, in other words, what he told her?

5 A. Yes, she did.

6 Q. What did she tell you that Mr. Kirk had
7 said?

8 A. Concerning what?

9 Q. Concerning the drums?

10 A. That the drums, approximately 100 drums
11 had been stored southwest of the car shop and had
12 later been disposed of by Conrail when it was in
13 Conrail ownership.

14 Q. Can you recall whether she told you
15 anything else about what Mr. Kirk had said?

16 MR. LINDLAND: You mean regarding the
17 spilled drums?

18 MR. LAMBERT: Right.

19 BY THE WITNESS:

20 A. No, I don't -- I don't recall anything
21 else.

22 BY MR. LAMBERT:

23 Q. Did she ask you to do anything further --
24 did Ms. Carlson ask you to do anything further in

1 connection with either Mr. Kirk or with respect to
2 his claim that the drums had been spilled at the
3 spot that you have marked on the map?

4 MR. LINDLAND: I object, and I am
5 instructing her not to answer to the extent that
6 would reveal any attorney work product.

7 You can answer the question.

8 BY THE WITNESS:

9 A. No, she didn't.

10 BY MR. LAMBERT:

11 Q. Did you take any notes of your
12 conversation with Ms. Carlson?

13 A. Yes, I did.

14 Q. Do you still have those with you?

15 A. Yes, I do.

16 Q. Do you have them today?

17 A. Yes, I do.

18 Q. Would you read them for us, please?

19 A. Pertaining to that?

20 Q. Yes, that's right.

21 A. It says "Kartsman, Bonnie."

22 Q. Is there anything else?

23 A. No, that is it.

24 Q. What was the date of your conversation

1 with Ms. Carlson?

2 A. February 9th, yesterday, 1993.

3 Q. You spoke to Ms. Carlson yesterday; is
4 that right?

5 A. Yes, that's right.

6 Q. Did the conversation -- did you have a
7 conversation with Ms. Carlson near the time that you
8 spoke with Mr. Kirk?

9 A. No, I did not.

10 Q. What was the purpose for your meeting or
11 your talking with Ms. Carlson yesterday?

12 A. Preparation for this deposition.

13 Q. In that meeting did she describe to you
14 her conversation with Mr. Kirk?

15 A. Yeah, she did.

16 Q. Would you now tell us what her full
17 description ~~was~~ of the conversation with Mr. Kirk?

18 MR. LINDLAND: I believe she just did,
19 Paul.

20 MR. LAMBERT: We have heard Mr. Kirk's
21 side of the conversation. We haven't heard Ms.
22 Carlson's side of the conversation.

23 MR. LINDLAND: Okay. Again, I will allow
24 her to answer as to the facts of the conversation

1 only.

2 You can answer.

3 BY MR. LAMBERT.

4 Q. What is the best you can recall of how
5 Ms. Carlson described the conversation?

6 A. Give me a moment.

7 Ms. Carlson's conversation dealt
8 with the location of the stored drums and the
9 disposal -- the location of the disposal of those
10 same drums.

11 Q. That was Ms. Carlson's -- that was how
12 Ms. Carlson recounted her discussion with Mr. Kirk;
13 is that correct?

14 A. And there was...

15 MR. LINDLAND: Could you ask the question
16 again, Paul?

17 BY MR. LAMBERT:

18 Q. What I am asking -- and maybe the first
19 question wasn't so clear -- what I am asking is if
20 you could tell us how Ms. Carlson described to you
21 yesterday the conversation that she had had with Mr.
22 Kirk?

23 A. How she had the conversation?

24 Q. I understood from your previous answer

1 that when you met with Ms. Carlson yesterday she
2 described to you a conversation that she had had
3 with Mr. Kirk; is that correct?

4 A. That's correct.

5 Q. What I would like you to tell us is how
6 she described her conversation with Mr. Kirk?

7 MR. LINDLAND: You mean the substance of
8 the conversation she had with Mr. Kirk or how she
9 described it, like with figures or letters or
10 verbally or -- I am not...

11 MR. LAMBERT: However she described the
12 conversation with Mr. Kirk. That is what I would
13 like the witness to tell us.

14 BY THE WITNESS:

15 A. She told me. She sat at her desk and she
16 told me what the conversation was about.

17 BY MR. LAMBERT:

18 Q. Okay. Did she tell you what the
19 conversation consisted of?

20 A. Yeah.

21 Q. What did she say?

22 A. She talked about with Greg the location
23 of the stored drums and the location of the spilled
24 drums.

1 Q. Did she tell you what either she said on
2 those subjects or what Mr. Kirk said on those
3 subjects?

4 MR. LINDLAND: Do you want to know like
5 specifically exactly what she said?

6 MR. LAMBERT: That's right, as best the
7 witness can recall.

8 BY THE WITNESS:

9 A. Specifically I can't recall Ms. Carlson
10 giving specifics about her, you know, and then I
11 said this and then he said this.

12 The conversation was not in that
13 format at all.

14 Q. Have you given us all of the details that
15 you can remember about how Ms. Carlson described her
16 conversation with Mr. Kirk to you or is there
17 something more that you can remember?

18 A. Give me a moment.

19 I mean that is all I can remember.

20 Q. Did Ms. Carlson describe just one
21 conversation that she had with Mr. Kirk?

22 A. Yes, she did.

23 Q. Did she refer to any notes when she
24 described the conversation to you?

1 A. Yes, she did.

2 Q. Did you see the notes?

3 MR. LINDLAND: You mean did she read the
4 notes or see pieces of paper sitting on her desk?

5 MR. LAMBERT: The question is did she see
6 them?

7 BY THE WITNESS:

8 A. Yes, I saw them.

9 BY MR. LAMBERT:

10 Q. Did you read them?

11 A. No, I didn't.

12 Q. Had you ever spoken with Ms. Carlson
13 before today concerning Mr. Kirk?

14 A. Yesterday, no, I didn't.

15 Q. Do you know whether anyone from the E&E
16 had spoken with Ms. Carlson before yesterday
17 concerning Mr. Kirk?

18 A. No, I don't know of anyone.

19 Q. When you met with Ms. Carlson yesterday,
20 did she describe any effort she had made to have Mr.
21 Kirk sign a statement or approve a statement?

22 MR. LINDLAND: I object, and I am
23 instructing the witness not to answer based on that
24 answer would reveal attorney work product.

1 MR. LAMBERT: Is it your view that all
2 conversations between lawyers and consultants is
3 work product?

4 MR. LINDLAND: No.

5 MR. LAMBERT: What is your view then? Why
6 is this work product?

7 MR. LINDLAND: Because the nature of the
8 question relates to the government's litigation and
9 enforcement strategy and has nothing to do with the
10 factual basis for the 30(b)(6), that is the spilled
11 drums.

12 MR. LAMBERT: Well, I don't accept that;
13 but I can't make you instruct the witness to answer
14 the question, so I will move on.

15 BY MR. LAMBERT:

16 Q. The technical memo refers to "buried or
17 spilled drums." Do you have any information
18 relating to buried drums?

19 A. No, I don't.

20 Q. Why did you use the word "buried" in
21 connection with drums when you wrote the last bullet
22 on Page 5-2 of the technical memo?

23 A. Because that was based on my recollection
24 of -- my recollection of the conversation -- my

1 personal recollection of the conversation with Greg
2 Kirk was not clear as to whether they were spilled
3 or buried drums in this area.

4 Q. When I asked you questions earlier about
5 your conversations with Mr. Kirk, you referred to
6 spilled drums, did you not?

7 MR. LINDLAND: Could you repeat the
8 question, Paul?

9 MR. LAMBERT: Let me pass on it.

10 BY MR. LAMBERT:

11 Q. Since talking to Mr. Kirk, have you
12 obtained any other information or knowledge with
13 respect to either spilled drums or buried drums on
14 the rail yard?

15 A. No, I haven't.

16 Q. Has any investigation been done in the
17 area that Mr. Kirk described?

18 MR. LINDLAND: I object, and I am
19 instructing the witness not to answer as that
20 question goes beyond the scope of the 30(b)(6)
21 notice.

22 MR. LAMBERT: No, it doesn't.

23 MR. LINDLAND: Sure, it does.

24 MR. LAMBERT: The first part of the

1 notice says the factual basis for the plaintiff's
2 belief the drums were spilled or buried.

3 MR. LINDLAND: Right; and she has given
4 you that.

5 BY MR. LAMBERT:

6 Q. Well, that is my question. Is that the
7 only factual basis for believing the drums were
8 spilled or buried at the spot that Mr. Kirk
9 described?

10 MR. LINDLAND: Are you talking about at
11 the time that the tech memo came out?

12 MR. LAMBERT: Up to the present moment.

13 MR. LINDLAND: Well, your 30(b)(6) notice
14 relates to drums that were spilled or buried as that
15 -- spilled or buried as those facts were set forth
16 in the tech memo dated July 22nd --

17 MR. LAMBERT: All I did was use the tech
18 memo so you would know what drums I was talking
19 about.

20 MR. LINDLAND: Okay.

21 MR. LAMBERT: The notice of deposition
22 calls for the factual basis of the United States'
23 belief. And if the witness has any more knowledge
24 with respect to the factual basis for the belief, I

1 would like to know about it.

2 MR. LINDLAND: Maybe if you just restate
3 your question.

4 BY MR. LAMBERT:

5 Q. Apart from what you have told us today,
6 do you have any more information either suggesting
7 that drums were spilled where Mr. Kirk said they
8 were or suggesting the contrary?

9 A. No, I don't have any information
10 confirming or denying.

11 Q. Did you do any investigation to follow up
12 on Mr. Kirk's information?

13 MR. LINDLAND: Again I am instructing the
14 witness not to answer as that question goes beyond
15 the scope of the 30(b)(6) notice.

16 MR. LAMBERT: That is just nonsense.

17 MR. LINDLAND: No, Paul. You are asking
18 her whether she has done any investigation or
19 sampling in this area. Obviously --

20 I mean, are you talking about before
21 the tech memo came out or after?

22 MR. LAMBERT: Or after the tech memo came
23 out; it doesn't matter.

24 MR. LINDLAND: Well, if it came out after

1 the tech memo, this is clearly beyond the scope
2 then.

3 MR. LAMBERT: It is not beyond the
4 scope. And if you want to take your chances and
5 instruct her not to answer, go ahead. But I think
6 you are making a big mistake, especially since, if
7 you want, we can come back and do it with a
8 different notice of deposition some other day.

9 What is the point of this?

10 MR. LINDLAND: Well, exactly, that is the
11 point. You will probably be deposing this witness
12 on another date.

13 MR. LAMBERT: I almost certainly will,
14 but I would like to know whether there is any reason
15 to believe or disbelieve Mr. Kirk's information.
16 And if some investigation was done in that area, it
17 would be relevant to that subject.

18 MR. LINDLAND: Well, maybe we can explore
19 that at that time then.

20 MR. LAMBERT: That is not acceptable to
21 us.

22 MR. LINDLAND: Well, you have heard my
23 objection.

24 MR. LAMBERT: You are instructing her not

1 to answer?

2 MR. LINDLAND: Right.

3 BY MR. LAMBERT:

4 Q. Have you ever spoken with any other
5 Conrail employees, either current employees or past
6 employees with respect to the information that Mr.
7 Kirk had provided you concerning spilled drums?

8 A. No, I haven't.

9 Q. Do you know whether anyone from E&E has?

10 A. No, I do not know.

11 Q. Do you know whether anyone in either E&E
12 or EPA has made any investigation involving
13 contacting employees, either past or present, of
14 Conrail to try to confirm Mr. Kirk's information?

15 A. No, I don't know of any attempts.

16 Q. When was the last time that you went to
17 the spot where Mr. Kirk -- the spot that Mr. Kirk
18 had identified for you?

19 A. Can I refer to a calendar?

20 Q. Sure.

21 A. It would have been sometime during the
22 week of January 18th, 1993.

23 Q. What did you do there?

24 MR. LINDLAND: Again, Paul, I object and

1 instruct her not to answer.

2 BY MR. LAMBERT:

3 Q. I am just checking my notes. I think I
4 asked this question already, but bear with me if I
5 haven't.

6 Apart from what you told us today,
7 Ms. Lombardi, do you have any other information with
8 respect to buried or spilled drums on the Conrail
9 property?

10 MR. LINDLAND: Could you clarify that a
11 little, Paul?

12 MR. LAMBERT: Is the witness confused? I
13 can't see her face.

14 THE WITNESS: Yes. If you could just
15 repeat that.

16 BY MR. LAMBERT:

17 Q. Apart from what you have told us today,
18 do you have any other information relating to
19 whether drums might have been spilled or buried on
20 the Conrail rail yard?

21 MR. LINDLAND: Is that like information
22 from Greg Kirk that you are --

23 MR. LAMBERT: Other than what has already
24 been described from any source at all.

1 MR. LINDLAND: Relating to the drums that
2 were spilled or buried that the bullet in the tech
3 memo refers to?

4 MR. LAMBERT: Right.

5 BY THE WITNESS:

6 A. No, I don't.

7 MR. LAMBERT: That's all the questions
8 that I have.

9 I would like to know whether the
10 United States will be producing additional witnesses
11 to provide us with all of their factual basis with
12 respect to believing that the drums that were
13 described in the technical memo were spilled or
14 buried.

15 MR. LINDLAND: We have produced the
16 deponent today who knows everything that the United
17 States knows.

18 MR. LAMBERT: Okay.

19 MR. JAFFE: Do you have any questions,
20 Pierce?

21 MR. CUNNINGHAM: Yes, just maybe one
22 question or so.

23 You know, I would like to just take
24 a brief recess if I could.

1 MR. JAFFE: I have got another thing I
2 have to do at a quarter to 4:00. I was assuming
3 that we were close to done.

4 EXAMINATION

5 BY MR. CUNNINGHAM:

6 Q. I am Pierce Cunningham, Bridget, from
7 Cincinnati representing Penn Central. And with
8 regard to Page 5-2, I guess it is in the bullet
9 where we are talking about that, I take it that if
10 you had to rewrite the language again -- again, I am
11 not critical of you -- but if you had to rewrite it,
12 you would probably not use the word "buried"; is
13 that correct, in connection with the word "drums,"
14 but rather use the word "stored"?

15 A. (No response.)

16 Q. Do you understand my question?

17 A. Yes, I do, and that is not true.

18 Q. Why not?

19 A. Because the buried or spilled aspect of
20 that bullet refers to the disposal practice; storing
21 does not.

22 Q. Were there buried drums at some point
23 here?

24 A. No.

1 Q. Okay. Then why is the word buried used?
2 Just as a possible alternative?

3 A. Because at the time of writing the tech
4 memo, to the best of my recollection, I wasn't sure
5 whether the drums had been disposed of through
6 spilling or burying them.

7 Q. All right. And now that you know more,
8 if you had an opportunity to rewrite that, you may
9 have eliminated the word "buried"?

10 A. I would eliminate the word "buried," yes.

11 Q. That's all I wanted to know.

12 And one other question: Now that
13 you have looked back on things, particularly your
14 meeting with Mr. Kirk in, I believe it was 1992,
15 February something -- 14th or 15th, he did not refer
16 to buried drums at the time, but rather stored drums
17 that were subsequently spilled; is that a correct
18 characterization of his revelation to you?

19 A. Yes; that is correct.

20 MR. CUNNINGHAM: That's all the
21 questions I have.

22 MR. LINDLAND: Okay, I have got just a
23 few questions.

24 MR. FREEMAN: Is it all right if I

1 finish, Kurt?

2 Just for the record, this is Bob
3 Freeman. I have no questions.

4 MR. LINDLAND: Sorry, Bob.

5 MR. FREEMAN: No problem.

6 EXAMINATION

7 BY MR. LINDLAND:

8 Q. You mentioned, Bridget, that you had a
9 conversation with Ms. Carlson regarding these drums,
10 that is the spilled drums, and Greg Kirk; is that
11 correct?

12 A. Yes, I did.

13 Q. And did Ms. Carlson remember any details
14 about her conversation with Greg Kirk when you
15 talked to her about that?

16 MR. LAMBERT: I object to the form of the
17 question. This is Paul Lambert.

18 She can testify to what Ms. Carlson
19 told her about her state of memory, but not to what
20 she remembered.

21 MR. LINDLAND: That's fine.

22 BY MR. LINDLAND:

23 Q. Did Ms. Carlson identify any details to
24 you regarding her conversation with Mr. Kirk other

1 than what you have already testified to today?

2 A. Would you repeat that?

3 Q. You mentioned that you had talked to Jan
4 Carlson about her conversation with Greg Kirk
5 regarding the spilled or buried drums, and I am
6 asking you whether Jan Carlson identified any
7 details to you regarding her conversation with Greg
8 Kirk other than what you have already identified
9 today?

10 A. The only thing that I could -- can is
11 perhaps the disposal method in Jan's conversation
12 with Greg Kirk.

13 Q. And what did she say regarding disposal
14 method as that relates to her conversation with Greg
15 Kirk?

16 A. Jan relayed to me that Greg had said that
17 the drums were disposed by pouring them down a
18 drainage system..

19 Q. Are there any other details that she
20 could remember about her -- or that she identified
21 to you about her conversation with Greg Kirk?

22 A. Not that I can -- not that is coming to
23 me right now, no.

24 Q. Do you remember whether Ms. Carlson

1 indicated whether she could remember anything else
2 about her conversation with Greg Kirk other than
3 what she identified to you during that conversation?

4 A. No, she couldn't remember anything else.
5 She told me everything that she could remember.

6 Q. Okay. Based on your understanding and to
7 the best of your knowledge, is there anyone at the
8 agency -- that is EPA or its representatives -- who
9 know any additional facts relating to the spilling
10 or the buried drums that were identified by Mr. Kirk
11 other than what you have identified for us today?

12 A. No. I know of no one who knows any more
13 information than what I have relayed today.

14 MR. LINDLAND: I have no further
15 questions.

16 MR. LAMBERT: I just have a couple more
17 now.

18 EXAMINATION

19 BY MR. LAMBERT:

20 Q. What jogged your memory with respect to
21 what Ms. Carlson had told you about the disposal
22 method?

23 MR. LINDLAND: Could you clarify that a
24 little, Paul?

1 MR. LAMBERT: No, I think it is pretty
2 clear.

3 THE WITNESS: Could you repeat it?

4 BY MR. LAMBERT:

5 Q. What jogged your memory to recall that
6 Ms. Carlson had told you that Mr. Kirk said that the
7 drums were poured down a drain?

8 A. Quite frankly, just going through the
9 conversation again and again in my head --

10 Q. Okay.

11 A. -- because of the questions.

12 Q. Is there anything else that you can
13 recall now that you have gone through it another
14 time in your head?

15 A. Give me a moment.

16 No, there is nothing else that I can
17 remember.

18 Q. Did you have any discussion with Ms.
19 Carlson about the fact that Mr. Kirk had described
20 to her disposal down a drain and he had described to
21 you spillage somewhere east of the car repair shop
22 on the ground?

23 A. Yes, I did.

24 Q. Can you tell us that discussion, please?

1 A. I simply stated that the information that
2 I had up to that point was that the drums had been
3 spilled in that area, which differed from what Mr.
4 Kirk had said to Ms. Carlson.

5 Q. Did Ms. Carlson tell you when she had had
6 her conversation with Mr. Kirk?

7 A. I don't recall if she did.

8 Q. Did she tell you whether she had
9 questioned Mr. Kirk on why it was that he had told
10 you one thing and was telling her something else?

11 MR. LINDLAND: You mean with respect to
12 the method of spilling the drums, Paul?

13 BY MR. LAMBERT:

14 Q. The alleged method of spilling the drums?

15 A. Jan and I had no prior conversations
16 about my conversations with Greg Kirk prior to her
17 conversations, so she would not have any reason to
18 question him about what he was saying.

19 Q. Did you report -- I take it from that
20 that you did not report your conversation with Greg
21 Kirk back in 1992 to Ms. Carlson; is that right?

22 A. That's correct.

23 Q. Who did you report it to?

24 A. I didn't report it to anybody.

1 Q. Do you know whether Mr. Phillips did?

2 A. No, he didn't.

3 Q. Do you know whether Mr. Courtney did?

4 A. Define "report."

5 Q. I am sorry?

6 A. Can you define what you mean by "report"?

7 Q. Did you tell -- do you know whether Mr.

8 Courtney told anyone at EPA about what Mr. Kirk had
9 said the day that you were out there at the yard?

10 A. I -- I don't -- I do not know.

11 Q. When you spoke with Ms. Carlson, did she
12 ask you whether you had done any investigation
13 either at the area where the drain was located or at
14 the area where Mr. Kirk had taken you?

15 MR. LINDLAND: Again, Paul, I am
16 objecting and instructing her not to answer.

17 MR. LAMBERT: You inquired as to this
18 conversation.

19 MR. LINDLAND: Is that a question?

20 MR. LAMBERT: Yes, it is. I will explain
21 to you why. Even if you accept that I couldn't
22 have asked this question before, it is appropriate
23 that I can ask it now.

24 MR. LINDLAND: Why is that.

1 MR. LAMBERT: Because you asked the
2 witness about her conversation with Jan Carlson,
3 about the state of her memory.

4 MR. LINDLAND: Relating to the drums that
5 were identified as spilled or buried by Greg Kirk.

6 MR. LAMBERT: Right.

7 MR. LINDLAND: I didn't ask her anything
8 about investigations or --

9 MR. LAMBERT: You can't have it both
10 ways.

11 MR. LINDLAND: I am not having it both
12 ways.

13 MR. LAMBERT: The question, please.

14 MR. LINDLAND: Do you have any other
15 questions?

16 MR. LAMBERT: I would like an answer to
17 that one first, and then I will tell you.

18 MR. LINDLAND: Well, the answer is I
19 object, and I am instructing her not to answer.

20 MR. LAMBERT: Okay. That's all for me.
21 Pierce?

22 MR. LINDLAND: What about you, Pierce?
23 Do you have any other questions?

24 MR. CUNNINGHAM: Just one.

EXAMINATION

BY MR. CUNNINGHAM:

Q. Bridget, now that you look back after your conversation with Jan Carlson and, of course, your conversation with Mr. Kirk in '92 and you see the difference there between the pouring of the contents of drums down a drainage system versus the disposal in apparently in an open field, can you -- what is your understanding of where that drainage system was?

MR. LAMBERT: I have to object to that. The question is asking the witness to opine as to which of two theories she --

MR. CUNNINGHAM: I am just asking for her understanding if she knows.

MR. LAMBERT: I have my objection.

MR. CUNNINGHAM: You always have your objection.

MR. LAMBERT: You can answer.

BY MR. CUNNINGHAM:

Q. Do you understand, Bridget?

A. No, I...

Q. The drainage system comes up. What about -- what is your understanding of where it was

1 disposed of, what drainage system? Just for clarity
2 in the record, it leaves it pretty much in doubt as
3 to where that is.

4 A. You know...

5 MR. LINDLAND: Pierce, are you asking her
6 to identify where the drainage system is?

7 MR. CUNNINGHAM: If she knows. You know,
8 maybe it will help her recall that. I don't know.
9 Maybe she doesn't have any knowledge of it.

10 BY THE WITNESS:

11 A. I haven't even thought about it. I just
12 found out about this yesterday. I haven't really
13 even thought about it.

14 BY MR. CUNNINGHAM:

15 Q. You can't answer the question if you
16 don't know.

17 A. Right; that is my answer.

18 Q. That's fine.

19 Were you involved in the Claude
20 Brewton allegations?

21 MR. LINDLAND: Pierce, I am definitely
22 going to object. This is way outside the scope.

23 MR. CUNNINGHAM: I will withdraw the
24 question, but with the understanding that we, too,

1 may have questions of Bridget in that area.

2 MR. LINDLAND: That's fine.

3 MR. CUNNINGHAM: Nothing further.

4 MR. LINDLAND: I just have one other
5 question.

6 EXAMINATION

7 BY MR. LINDLAND:

8 Q. Bridget, do you know how Jan Carlson
9 found out about the discussion with Greg Kirk
10 relating to the drums, that is, your discussion?

11 A. Yes, I do.

12 Q. And to the best of your knowledge, how
13 did Jan Carlson learn of that discussion?

14 A. Through Paul Courtney of the State of
15 Indiana Department of Environmental Management and
16 the RPM for the site at that time.

17 Q. And do you know basically what Paul
18 Courtney told Jan Carlson relating to the spilled
19 drums identified by Greg Kirk?

20 A. The information that Jan received through
21 conversation with Paul Courtney was -- was that a
22 meeting had taken place with Greg Kirk and Kevin
23 Phillips and Bridget Lombardi, and Greg Kirk had
24 talked about the storage of approximately 100 drums

1 southwest of the car shop and the spilling of those
2 same drums in a field east of the car shop.

3 Q. Is there anything else?

4 MR. LAMBERT: I couldn't hear you.

5 MR. LINDLAND: I just asked her if there
6 was anything else.

7 MR. LAMBERT: Are you saying you are
8 done? Are you done?

9 MR. LINDLAND: No. I am asking Bridget
10 if there was anything -- whether there is anything
11 else that he said to Jan Carlson that she knows.

12 BY THE WITNESS:

13 A. Pertaining to the spilled or buried
14 drums?

15 BY MR. LINDLAND:

16 Q. Right.

17 A. No.

18 MR. LINDLAND: I have no further
19 questions.

20 MR. LAMBERT: I have one more question.

21 EXAMINATION

22 BY MR. LAMBERT:

23 Q. I thought I had asked -- I am directing
24 this to Ms. Lombardi -- I thought -- I tried to ask

1 you whether you knew if Mr. Courtney had reported on
2 the Kirk meeting to Ms. Carlson, and I thought you
3 said you didn't know. Did I misunderstand?

4 A. (No response.)

5 MR. LINDLAND: I think it is your
6 characterization -- your sort of characterization of
7 report, Paul, that may have --

8 I don't know, is there a way you can
9 ask it in another way?

10 MR. LAMBERT: I would like to hear from
11 the witness first.

12 MR. LINDLAND: Well, I mean she is having
13 a hard time answering your question. I remember --

14 MR. LAMBERT: I don't remember what word
15 I used, but I thought I said do you know if Mr.
16 Courtney told Ms. Carlson about the conversation
17 with Mr. Kirk, and I thought that the answer to that
18 was "I don't know."

19 In any event, let me move on to the
20 next question then.

21 BY MR. LAMBERT:

22 Q. What is your basis for believing that
23 there was a conversation between Mr. Courtney and
24 Ms. Carlson or some other communication besides a

1 conversation?

2 A. Because she told me.

3 Q. What did she tell you about that
4 conversation?

5 MR. LINDLAND: I believe I just asked her
6 that, but I will allow her to answer it again.

7 BY THE WITNESS:

8 A. She told -- she -- Ms. Carlson told me
9 that Paul Courtney had told her about our meeting
10 with Greg Kirk and the information gained.

11 BY MR. LAMBERT:

12 Q. The information gained relating --
13 related to the alleged spillage of the drums?

14 A. Yes.

15 MR. LAMBERT: Okay. I have nothing
16 further.

17 Thank you very much.

18 MR. CUNNINGHAM: Nothing further.

19 MR. LINDLAND: No further questions.

20 MR. LAMBERT: Kurt, could you give copies
21 of the exhibits?

22 Thank you very much Bridget. We
23 appreciate your help.

24 (Further deponent saith not.)

(Signature reserved.)

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)
4

5 I, CAROL RABER, CSR, a notary public
6 within and for the State of Illinois, do hereby
7 certify that BRIDGET LOMBARDI was by me first
8 duly sworn, and that the within deposition
9 consisting of pages 1 through 63 inclusive, was
10 reduced by means of computer-aided transcription and
11 is a true and correct transcript of the testimony so
12 given by said witness at the time and place
13 specified hereinbefore.

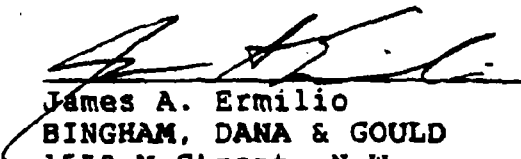
14 I further certify that I am not a relative
15 or employee or attorney or counsel for any of the
16 parties; nor a relative or employee of such attorney
17 or counsel; or financially interested directly or
18 indirectly in this action.

19 IN WITNESS WHEREOF, I hereunto set my hand
20 and affix my seal of office at Chicago, Cook County,
21 Illinois this 11th day of February, 1993.
22

23 *Carol Raber* "OFFICIAL SEAL"
24 CAROL RABER, CSR
License No. 084-00281 PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 4/12/95

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Rule 30(b)(6) Deposition was sent by hand delivery to Peter E. Jaffe, Esq., Trial Attorney, United States Department of Justice, 1425 New York Avenue, 12th Floor, Region 5, Washington, D.C. 20005, and by first class mail, postage prepaid to those persons on the attached Service List, this 25th day of January, 1993.



James A. Ermilio
BINGHAM, DANA & GOULD
1550 M Street, N.W.
Suite 1200
Washington, D.C. 20005
(202)822-9320

8510x

PHASE II REMEDIAL INVESTIGATION
CONRAIL RI/PS
ELKHART, INDIANA
TECHNICAL MEMORANDUM
WORK ASSIGNMENT NUMBER 01 - BL7Y

July 22, 1992

Prepared for:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ARCS Region V
Contract 68-W8-0088
77 West Jackson Boulevard
Chicago, Illinois 60604

DEPOSITION
EXHIBIT

*Lombardi #2
CR 2/10/93*



ecology and environment, inc.

111 WEST JACKSON BLVD., CHICAGO, ILLINOIS 60604. TEL 312-663-8418

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EP 04016

B. CONCLUSIONS AND DATA GAPS

The purpose of the Phase II RI was to determine the nature and extent of contamination at the Conrail railyard and vicinity and to address the following objectives presented in the WP.

- Preliminarily identify the potential source(s) contributing to the County Road 1 and LaRue Street contamination areas;
- Evaluate the relationship between the County Road 1 plume, the Vistula Avenue plume, and the Charles Avenue plume;
- Define the nature and approximate extent of the source(s) of the contamination as they are tentatively identified during the Phase II investigation; and
- Further define the nature and extent of the contaminant plumes.

B.1 CONCLUSIONS

This Phase II RI Technical Memorandum addresses the objectives listed above and documents the following conclusions:

- 1) Soil analytical results and LSA data confirm a railyard CCl_4 source in track 68 on the east end of the classification yard. Soil analytical results and LSA data also confirm a railyard TCE source between tracks 65 and 66 on the west end of the classification yard. LSA and monitoring well data indicate additional CCl_4 and TCE sources on the Conrail railyard contributing to off-site groundwater contamination. LSA data and groundwater results provide additional information confirming a link between contamination on the Conrail railyard and groundwater contamination in County Road 1.

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Phase II RI Technical Memorandum
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- 2) LSA and monitoring well data confirm the link between Vistula Avenue contamination and contamination originating on the Conrail railyard.
- 3) The nature and approximate extent of a CCl_4 source in track 69 and a TCE source between tracks 65 and 66 were defined.
- 4) Groundwater sample results further defined the nature and extent of the contamination plumes. Contamination was detected in monitoring wells screened on top of bedrock on the Conrail railyard (DCE, $3 \mu\text{g/L}$), in County Road 1 area (TCE, $32 \mu\text{g/L}$), and in Charles Avenue area (TCE, $330 \mu\text{g/L}$).
- 5) LSA and monitoring well data indicate a railyard source of the groundwater contamination in the LaRue Street area.
- 6) Based on the established groundwater flow direction, Charles Avenue residential area is within the path of the contamination plume originating on the Conrail railyard.

5.2 DATA GAPS

E & E recommends that the RI/FS process be continued with a Phase III field investigation. The Phase II investigation results highlight the following data gaps:

- The CCl_4 source identified in the track 69 area in the east end of the classification yard requires further vertical definition in order to determine if a dense non-aqueous phase liquid (DNAPL) is present.
- The path of the groundwater contamination plume originating from the CCl_4 source in track 69 requires further definition.
- The path of the groundwater contamination plume originating from the TCE source identified between tracks 65 and 66 in the west end of the classification yard requires further definition.
- The location within the railyard of the source for the LaRue Street contamination plume requires identification.
- An investigation of the drainage pattern system on the Conrail railyard is required to determine if it is the cause of the widespread distribution of contamination.
- Reported buried tank cars and buried or spilled drums on the Conrail railyard require investigation as potential sources to the groundwater contamination identified.

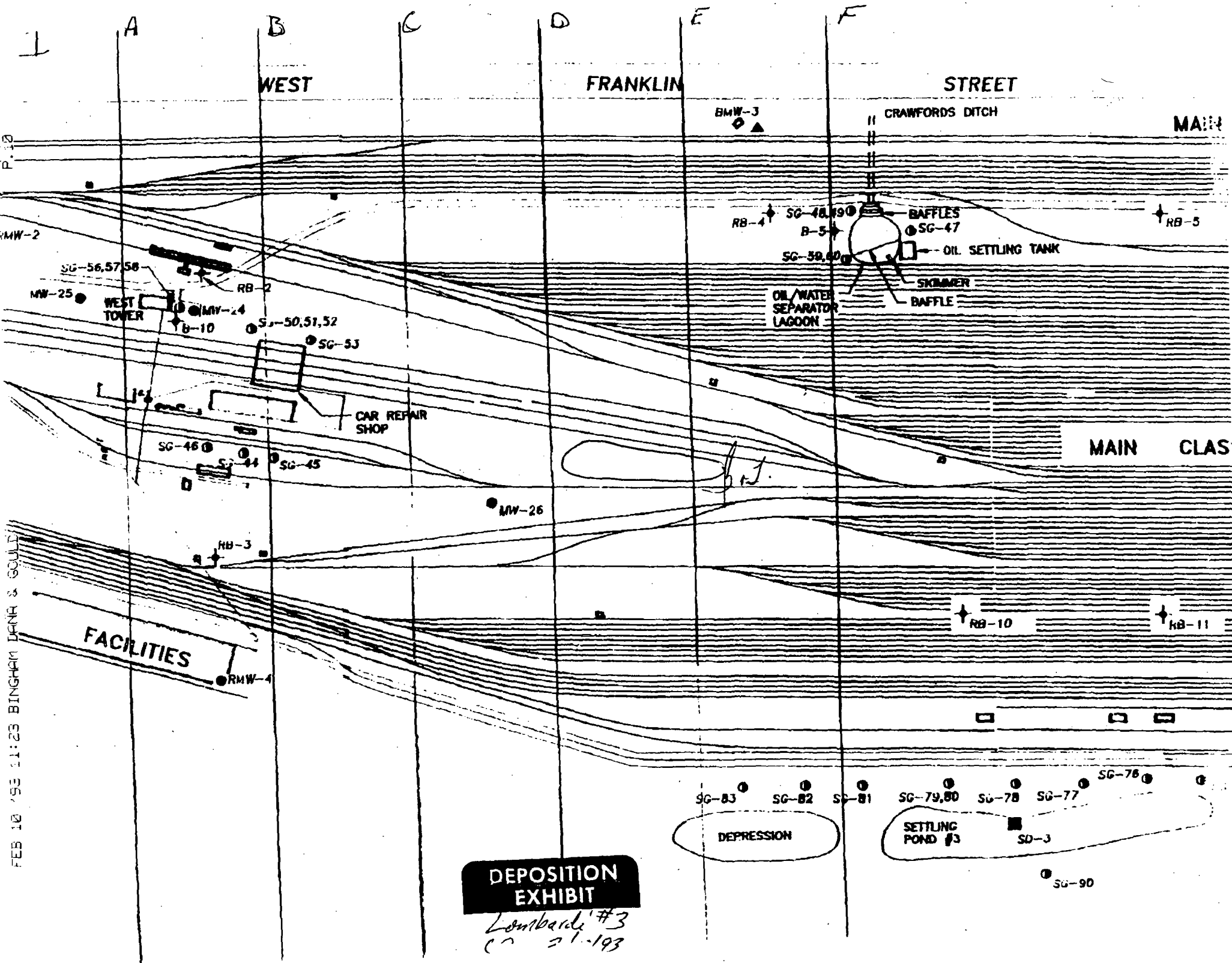
Conrail RI/FS
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- The link between County Road 1 contamination and Charles Avenue contamination requires further investigation.
- ✓ • The potential contributions from Fibertex and/or Elkhart Office Machine (EOM) require investigation. Landfarming of septic sewer waste in the open fields between County Road 1 and Vistula Avenue and landfarming and disposal facilities on Chizum's property both require investigation.
- An Ecological Assessment to address impact of contamination to the St. Joseph River, Saugo Bay, and the ponds on the Conrail railyard.
- A pump test to model contaminant transport and to evaluate alternatives for proper remediation of the site and vicinity.

The need for and scope of potential Phase III RI activities to address these data gaps will be discussed with EPA prior to recommending future work.

EP 04086

FEB 10 '93 11:23 BINGHAM DANA & GOULD



DEPOSITION
EXHIBIT

Lombardi #3
CO 21-193

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

CONSOLIDATED RAIL CORPORATION,
a/k/a CONRAIL,
Defendant and Third Party
Plaintiff,

v.

PENN CENTRAL CORPORATION,
et al.,
Third Party Defendants.

Case No. S90-00056

Judge Robert L. Miller, Jr.

NOTICE OF RULE 30(b)(6) DEPOSITION

Defendant Consolidated Rail Corporation ("Conrail") shall take the deposition of the Plaintiff United States of America pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure at 10:00 a.m. on Wednesday, February 10, 1993 at the office of Bingham, Dana & Gould, 1550 M Street, N.W., Suite 1200, Washington, D.C. The deposition will continue from day to day thereafter. The Plaintiff shall designate one or more persons who shall testify as to matters known or reasonably available to the Plaintiff on the subject matter below.

DEPOSITION
EXHIBIT

Lombardi #1
CR 2/10/93

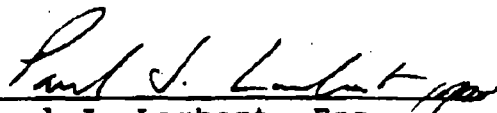
- 2 -

The subject matter of the deposition is as follows.

(1) The factual basis for the Plaintiff's belief that drums were spilled and/or buried at the Conrail Elkhart Railyard, as described in the Technical Memorandum dated July 22, 1992 prepared by Ecology and Environment, Inc. for the Plaintiff in connection with the Phase II Remedial Investigation conducted by the Plaintiff at the Conrail Elkhart Railyard and (2) communications with past or current Conrail employees relating to the aforementioned drums.

CONSOLIDATED RAIL CORPORATION

By its attorneys,



Paul J. Lambert, Esq.
James A. Ermilio, Esq.
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